



ajohnston@telecomlawpros.com  
202.552.5121

March 9, 2018

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: Notice of Ex Parte Communication  
In the Matter of PCS Partners, L.P. Applications for Waiver and Limited Extension of Time,  
WT Docket No. 12-202

Dear Ms. Dortch:

On March 7, 2018, David Behenna of PCS Partners, L.P. ("PCSP") and Jessica Gyllstrom, Dennis P. Corbett and the undersigned of Telecommunications Law Professionals PLLC, met with Commissioner Brendan Carr and with Will Adams, Legal Advisor to Commissioner Carr.

On March 8, 2018, Mr. Behenna, Ms. Gyllstrom and the undersigned met separately with Erin McGrath, Legal Advisor, to Commissioner Michael O'Rielly; Rachael Bender, Legal Advisor to Chairman Ajit Pai; Umair Javed, Legal Advisor to Commissioner Jessica Rosenworcel; and Louis Peraertz, Senior Legal Advisor to Commissioner Mignon Clyburn.

The purpose of the meetings was to discuss PCSP's pending, unopposed Application for Review ("AFR") filed in the in the above-referenced proceeding.<sup>1</sup> The discussions, which were consistent with the AFR, highlighted the legal, equitable, and public interest justifications for granting the AFR and allowing PCSP additional time to satisfy buildout requirements for its Multilateration and Location Monitoring Service ("M-LMS") licenses.

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<sup>1</sup> PCS Partners, L.P., Application for Review, WT Docket No. 12-202 (filed Feb. 17, 2017) ("AFR"). The AFR seeks review of the Wireless Telecommunications Bureau's Order, Requests by FCR, Inc. et al. for Waiver and Limited Extension of Time, Order, 29 FCC Rcd 10361, ¶ 16 (WTB MD 2014), and Order on Reconsideration, PCS Partners, L.P., Applications for Waiver and Limited Extension of Time, WT Dkt. 12-202, DA 17-68 (WTB Jan. 18, 2017).



Ms. Marlene H. Dortch  
March 9, 2018  
Page 2

In particular, PCSP summarized the unique circumstances that culminated in the Bureau's arbitrary and unexplained grant of just two and four years, respectively, to satisfy mid-term and end-of-term construction obligations. PCSP reiterated that its inability to construct has at all times been due to causes beyond its control, including lack of commercially available equipment; lack of access to proprietary equipment; regulatory uncertainty engendered by the Commission's 2006 proposal to revise the M-LMS rules based on a finding that "current M-LMS rules place significant restrictions on M-LMS operations"<sup>2</sup>; and continuing uncertainty resulting from the Commission's abrupt termination of the rulemaking in 2014, when it failed to follow its own notice requirements. Consequently, extension is justified, both under explicit M-LMS rules (47 C.F.R. § 90.155(g)) and the Commission's waiver standard (47 C.F.R. § 1.925(b)(3)), which takes into account the underlying purpose of the rule, unique and unusual factual circumstances, whether application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, and whether there is a reasonable alternative.

Finally, PCSP discussed its ongoing efforts to develop a viable technology solution utilizing its M-LMS spectrum. PCSP noted that, although it has proposed (in WT Docket No. 16-149) a plan and timetable that would result in the near-term offering of a competitive service utilizing its M-LMS spectrum,<sup>3</sup> the unreasonably brief construction extension granted by the Bureau in 2014 was not sufficient under well-established Commission precedent, as set forth in the AFR.

This notice is being filed in the above-referenced docket for inclusion in the public record. Please contact me with any questions.

Sincerely,

/s/ E. Ashton Johnston

E. Ashton Johnston  
of TELECOMMUNICATIONS LAW PROFESSIONALS PLLC

cc (via email):      Commissioner Brendan Carr  
                             Will Adams  
                             Erin McGrath  
                             Rachael Bender  
                             Umair Javed  
                             Louis Peraertz

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<sup>2</sup> Amendment of the Commission's Part 90 Rules in the 904-909.75 and 919.75-928 MHz Bands, WT Dkt. 06-49, Notice of Proposed Rulemaking, 21 FCC Rcd 2809, ¶ 18 (2006). PCSP agrees with the Commission's observation that "[a] consequence of these restrictions ... has been that M-LMS licensees may be unnecessarily prevented from providing other services, even as technical advances and market demands change what may be feasible within the interference parameters established for this band." *Id.*, ¶ 18.

<sup>3</sup> See PCS Partners, L.P. Petition for Waiver of 47 C.F.R. § 90.353(b) and Request for Extension of Time, WT Dkt. 16-149 (Apr. 15, 2016; amended Aug. 19, 2016).